



Administrative Law Judge, Marilyn Mann Faulkner, reduced Plaintiff's counsel's fee to \$5,000.00.

Additionally, the Administrative Law Judge's ruling includes a paragraph stating that

If the representative or the claimant disagrees with the fee, either or both can ask us to review the amount of the fee. If the claimant thinks the fee is too high or the representative thinks the fee is too low, either party must write to us within 30 days from the date of this notice.

Plaintiff did not object to this fee award.

## **II. DISCUSSION**

Pursuant to 42 U.S.C. § 406(b), "in Social Security disability cases a district court is authorized by the [Social Security] Act to approve counsel's requests for fees from the claimant's award only for services performed" in federal courts. Guido v. Schweiker, 775 F.2d 107, 108 (3d Cir. 1985). Such a fee must be reasonable and may not exceed "25 percent of the total past due benefits to which the claimant is entitled. 42 U.S.C. § 406(b)(1)(A). In a case where attorneys fees are awarded by both the court for proceedings in federal court and by the SSA for proceedings before the agency, the combination may not exceed the 25 percent limit contained in the statute. See 42 U.S.C. § 406; Guido, 775 F.2d at 108.

Here, this Court and the SSA may award fees up to the amount of \$6,696.73 - a sum equaling 25 percent of Miguel's past due Social Security benefits. Since the Secretary awarded \$5,000.00 in fees for Solow's representation of Miguel before the SSA, this Court may award up to \$1,797.75, provided such an award is reasonable.

This Court is convinced that a \$1,797.75 award is a reasonable award for the 38.75 hours of work that Solow performed before this Court and before the Court of Appeals. Such an award reflects an hourly rate slightly above \$46.00 an hour for Solow's work in federal court, a rate far below the \$250.00 hourly rate used by the agency to calculate a reasonable fee.

**III. CONCLUSION**

For the reasons stated, it is the finding of this Court that Plaintiff's motion for counsel fees in the amount of \$1,797.75 for work performed in the Federal District Court and the Court of Appeals pursuant to 42 U.S.C. § 406 is **granted**. An appropriate Order accompanies this Opinion.

S/ Dennis M. Cavanaugh  
Dennis M. Cavanaugh, U.S.D.J.

Date: February 28, 2007  
Orig.: Clerk  
cc: Counsel of Record  
The Honorable Mark Falk, U.S.M.J.  
File